IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

:: O R D E R ::

S.B. CIVIL WRIT PETITION NO.3403/2003- MUNAWWAR RAHI VS STATE OF RAJASTHAN & ANR. UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER : 3.3.2005

PRESENT
HON'BLE MR. PRAKASH TATIA, J.

Mr.T.Gupta]
Mr.Usman Gani], for the petitioner.

Mr.Lalit Kawadia, for the respondent no.2
Mr.Shyam Ladrecha, Addl.GA, for the State

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BY THE COURT:

Heard learned counsel for the parties.

According to petitioner he obtained the Masters Degree in Political Science and passed graduate diploma in Journalism and he started his carrier in the journalism in the year 1974. After writing for the various newspapers, in the year 1984 he became Udaipur Correspondent for the National Newspaper 'Jansatta' and also remained

as Bureau Chief for Banglore Evenings and also remained attached with various other newspapers. He also attended various seminars and conferences held in various parts of the country and outside the country. The petitioner was awarded by the District Magistrate on the occasion of 15th August and also honoured by Dalit Sahitya Acadamy etc.

When the petitioner came to know about the decision of the Urban Improvement Trust, Udaipur that the plots will be allotted to the accredited journalists as provided under category (f) of the list of categories of eligible persons appended under Rule 17 of Rajasthan Urban Improvement Trust (Disposal of Urban Land) Rules, 1974, he applied for allotment of the plot. According to petitioner, the petitioner's name was included in the list of eligible candidates, which is apparent from the copy of the list obtained by the petitioner from the UIT, Udaipur Annex.P/2 and P/4 where petitioner's name is at S.No.41 and 36 in the list respectively, but for the reasons best known to the UIT, Udaipur, the name of the petitioner was deleted from the list of eligible persons for allotment of the plot. The petitioner submitted several representations to the UIT, Udaipur, but the petitioner has not been granted any relief.

According to petitioner, the petitioner came to know that the

UIT,Udaipur constituted a committed to examine the eligibility of the candidates vide Annex.P/3 dated 7th May, 2003. The petitioner challenged the constitution of the committee as according to petitioner, the Urban Improvement Trust had no jurisdiction to constitute the committee and should have examined the eligibility of the allottees by the Urban Improvement Trust itself.

The respondent UIT, Udaipur submitted reply to the writ petition and submitted that the decision was taken by the UIT, Udaipur to allot the land to the accredited journalists under the said rule (referred above) and for that purpose, applications were invited. The UIT received 128 applications and they constituted an advisory committee on 6th March, 2003 consisting of officer on special duty, Dy. Town Planner and Asstt. Legal Remembrancer. However, the time for submitting the applications was extended from 28.2.2003 to 7th April, 2003 and during this period 21 more applications were received and by this the applications received by the UIT, Udaipur reached to 149. The matter was examined by the committee of journalists and committee submitted their report on 27th May 2003. According to which, 84 persons were prima facie found genuine and for 8 applications, it was said that trust should make enquiry at his own and for 12 candidates it is said that they are journalists of category (II), but they may be considered, 45

persons were found indulged in other activities and were not found working as journalists. The UIT, Udaipur decided to allot plots to 84 persons in first phase and for that purpose it was decided that 51 plots may be allotted in block 'C' of Madri Extension Scheme, 51 plots in Bhuvana Extension Scheme and 33 plots in Chitracut Nagar. This decision was taken on 17th June, 2003. The land was acquired and compensation was deposited in the Court and the process for taking possession was going on. Since the respondent received notice of the writ petition, therefore, no further steps were taken and it was left to be taken after the decision of this court in this writ petition.

It is also submitted by the UIT that for scrutiny of the cases of other journalists, the matter was sent to the District Public Relation Officer vide letter dated 2nd August, 2003. The District Public Relation Officer found that out of said ineligible 45 persons, 8 persons are journalists and they are of category (II) and 12 persons, who were said to be journalists of category (II) were eligible for allotment and for 7 persons no cogent opinion was given. However, it was pointed out that they are in Government service and are working in the District Public Relation Office.

On the basis of the above submissions, the UIT, Udaipur prayed

that the writ petition may be disposed of and in case, the court comes to the conclusion that the selection procedure for allotment of the plots is valid then Trust may be allowed to allot the plots to 84 persons, who are proposed to allot the plots as per the lottery drawn on 5.8.2003.

It appears from the Rajasthan Urban Improvement Trust (Disposal of Urban Land) Rules, 1974 that as per Rule 8 for disposing of the land by the trust, the UIT is required to frame a scheme. The scheme is required to be approved under Rule 9. The plots can be reserved for allotment at concessional rate as per Rule 10 to the category of persons referred in Rule 17. The clause (f) of Rule 17 provides for category of persons, who are accredited journalists and whose income does not exceed Rs.40,000/- at the time of allotment.

In view of the above, if the scheme has been prepared by the trust under Rule 8 and approved by the Chief Town Planner as provided under Rule 9 and it has been decided that the plots be allotted to the accredited journalists on the terms and conditions as prescribed under the Rules, then the Urban Improvement Trust can allot the residential plots to the accredited journalists. It is clear from clause (f) of Rule 17 that plot can be allotted to the eligible persons, who are eligible as per Rules only and, therefore, the word 'accredited' which has been used

before the journalist has its own instance and before allotting the plots, it is required to be decided whether one is falling in the category and is eligible for allotment of the plot or not. The UIT may gather the information from the applicants themselves and may obtain the information from their own source and if there is objection, the same can be conveyed to the applicants so that a fair decision may be taken without any delay in the matter of allotment of plots to the persons for whom there is a provision of allotment of the plot at concessional rate.

It appears from the reply of the UIT, Udaipur that they tried to get the matter inquired through the committee constituted by them and for that purpose, the respondent UIT, Udaipur issued office order dated 7th May, 2003. It appears from the reply that despite above report, more informations were sought in the matter of several persons from the District Public Relation Office by the Government of Rajasthan. It appears from the report of the committee as constituted by the order of the UIT, Udaipur Annex.P/3 dated 7th May, 2003 that some of the persons were not found eligible for allotment of the plots whereas the District Public Relations Officer opined otherwise, but at the same time, he also disclosed that some of the persons are not eligible for allotment of the plots and even some of the persons are working in the District Public Relation Office itself.

In view of the above, the UIT, Udaipur is under obligation to follow the rules. If the UIT, Udaipur has decided to allot the plots to the "accredited journalists" then UIT itself required to examine the matter of each journalist-applicant and can allot the plots to only those journalists, who are eligible for allotment of the plots at concessional rate after carefully judging the eligibility of the applicant and mere opinion of the Committee itself cannot become the decision of the UIT deciding the applicant as eligible person for allotment of the land at concessional rate, however, that opinion or report may be piece of evidence relevant.

This court itself cannot become the fact finding authority. Looking to the reports, it is left open to the UIT, Udaipur to consider the case of the petitioner also in the light of the reports, which are lying with them and may decide the case of the petitioner for allotment of the plot at concessional rate in the above said category within a period of four months from the date of receipt of the certified copy of this order, which may be supplied to the UIT, Udaipur by the petitioner. The petitioner may also be given opportunity to met with any allegations by which the UIT, Udaipur considers that he will not be eligible for allotment of the plot. The petitioner will be free to submit the documents in relation to his eligibility before the UIT, Udaipur.

In view of the above, the writ petition of the petitioner is partly allowed and the stay order granted by this court on 18th August, 2003 is vacated.

(PRAKASH TATIA), J.

c.p.goyal/-